

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

COLBY GOROG, JOSHUA FLINT, LOUIS  
ROBINSON, and MICHAEL LERRO,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

ELON MUSK and TESLA, INC.,

Defendants.

Civil Action No.: 1:22-cv-05037-AKH

ECF Case

**STIPULATION RESOLVING PLAINTIFFS' NOTICE OF APPEAL  
AND THE PARTIES' POST-JUDGMENT MOTIONS**

Plaintiffs Colby Gorog, Joshua Flint, Louis Robinson, and Michael Lerro, individually and on behalf of all others similarly situated (“Plaintiffs”), by and through their undersigned counsel, and Defendants Elon Musk and Tesla, Inc. (“Defendants”), by and through their undersigned counsel, respectfully submit this stipulation withdrawing Plaintiffs’ notice of appeal from this Court’s order dismissing the Fourth Amended Complaint with prejudice (Dkt. No. 115) and withdrawing all of the parties’ outstanding motions and requests for post-judgment relief in the above-captioned action (Dkt. Nos. 116-127, 136-142, and 144-145).

WHEREAS, on August 29, 2024, this Court entered an order dismissing Plaintiffs’ Fourth Amended Complaint with prejudice (Dkt. No. 113);

WHEREAS, on August 30, 2024, the Clerk of Court entered Final Judgment in Defendants’ favor, taxed costs, dismissed the Fourth Amended Complaint with prejudice, and closed the case (Dkt. No. 114);

WHEREAS, on September 19, 2024, Plaintiffs filed a notice of appeal from this Court’s Order dismissing the Fourth Amended Complaint (“Notice of Appeal”) (Dkt. No. 115);

WHEREAS, on September 27, 2024, Defendants filed a Motion to Amend, Make Additional Findings, and Amend the Final Judgment Pursuant to Federal Rules of Civil Procedure 52(b) and 59(e) and 15 U.S.C. § 78u-4(c) (the “Motion to Amend the Judgment”) (Dkt. Nos. 116-118, 136-138), which Plaintiffs opposed (Dkt. Nos. 119-124, 140);

WHEREAS, on October 10, 2024, Plaintiffs filed a Cross-Motion for Sanctions Pursuant to Federal Rule of Civil Procedure 11 and 28 U.S.C. § 1927, Disqualification of Defense Counsel and to Seal Document (the “Cross-Motion”) and a Declaration of Plaintiffs’ Attorney Evan Spencer in Support of Cross-Motion to Disqualify, Sanction, and Seal Document (“Spencer Cross-

Motion Declaration”) (Dkt. Nos. 125-127), which Defendants opposed and moved to strike (Dkt. Nos. 139, 141-142);

WHEREAS, on October 22, 2024, the United States Court of Appeals for the Second Circuit issued a Notice of Required Case Status Update staying the Appeal pending resolution of Defendants’ Motion to Amend the Judgment and directing Appellant to provide status updates to the Second Circuit at 30-day intervals beginning 30 days from the date of the notice and within 14 days after final disposition of the last outstanding motion (Dkt. No. 134);

WHEREAS, on October 25, 2024, Defendants filed a Notice of Motion and Motion to Strike the Declaration of Plaintiffs’ Attorney Evan Spencer and Plaintiffs’ Cross-Motion to Disqualify, Sanction, and Seal and all arguments based on the Spencer Declaration (“Motion to Strike”) and opposed Plaintiffs’ Cross-Motion (Dkt. Nos. 139, 141-42), which Plaintiffs opposed (Dkt. No. 144-145);

WHEREAS, on October 28, 2024, Plaintiffs served Defendants with “a confidential 21-day safe harbor notice under FRCP Rule 11,” and publicly docketed the notice with the Court on November 8, 2024 (Dkt. Nos. 145-4 & 145-5); and

WHEREAS, Defendants’ reply memorandum of law in support of Defendants’ Motion to Strike is due on November 15, 2024.

NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE AS FOLLOWS, subject to this Court’s endorsement:

1. Defendants’ time to file their reply memorandum of law in support of Defendants’ Motion to Strike (currently due November 15, 2024) is suspended, pending this Court’s endorsement of this Stipulation Resolving Plaintiffs’ Notice of Appeal and the Parties’ Post-Judgment Motions;

2. Plaintiffs withdraw their Notice of Appeal (Dkt. No. 115) with prejudice;

3. On or before the 30-day Status Update date (November 21, 2024), Plaintiffs will inform the United States Court of Appeals for the Second Circuit that they have withdrawn their Notice of Appeal and that Plaintiffs will not perfect their Appeal;

4. Within 2 business days after this Court's memo endorsement of this Stipulation Resolving Plaintiffs' Notice of Appeal and the Parties' Post-Judgment Motions, Plaintiffs will provide the United States Court of Appeals for the Second Circuit with a copy of the Court's order.

5. Plaintiffs withdraw the Cross-Motion (Dkt. Nos. 125-127) with prejudice;

6. Defendants withdraw the Motion to Amend the Judgment (Dkt. Nos. 116-118, 136-138) with prejudice;

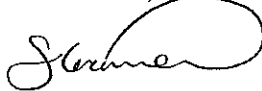
7. Defendants withdraw the Motion to Strike (Dkt. Nos. 139, 141-142) with prejudice.

8. Plaintiffs will not seek or file any further motions for any further post-judgment relief, in this Court or in the United States Court of Appeals for the Second Circuit, including, but not limited to any motion pursuant to Federal Rule of Civil Procedure 11.

9. Plaintiffs will not challenge, in this Court, the United States Court of Appeals for the Second Circuit, or any other court, this Court's order dismissing the Fourth Amended Complaint with Prejudice or the Final Judgment closing this case (Dkt. Nos. 113-114).

DATED: New York, New York  
November 14, 2024

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*Attorney for Plaintiffs*

**SO ORDERED.**

DATED: 11-18-24

  
Hon. Alvin K. Hellerstein  
U.S. District Judge